

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----
5 CARL ORLANDO, JR., on behalf of himself
6 and others similarly situated,

7
8 Plaintiff,

9
10 -against-

11
12 LIBERTY ASHES, INC., FRANCESCO
13 BELLINO, MICHAEL BELLINO, JR.,
14 STEPHEN BELLINO, and MICHAEL
15 BELLINO,

16
17 Defendants.

18 -----
19
20 March 27, 2018
21 3:13 p.m.

22
23 DEPOSITION of JESSICA GAMBINO,
24 taken by Plaintiff, pursuant to Subpoena,
25 held at the offices of JOSEPH &
KIRSCHENBAUM LLP, 32 Broadway, New York,
New York before Wayne Hock, a Notary
Public of the State of New York.

A P P E A R A N C E S:

JOSEPH & KIRSCHENBAUM LLP

Attorneys for Plaintiff

32 Broadway

New York, New York 10004

BY: DENISE SCHULMAN, ESQ.

FINN DUSENBERRY, ESQ.

TRIVELLA & FORTE LLP

Attorneys for Defendants

1311 Mamaroneck Avenue

White Plains, New York 10605

BY: CHRISTOPHER SMITH, ESQ.

STARR, GERN, DAVISON & RUBIN, P.C.

Attorneys for Witness

105 Eisenhower Parkway

Roseland, New Jersey 07068

BY: LISA J. JURICK, ESQ.

* * *

1

2 J E S S I C A G A M B I N O, having
3 been first duly sworn by a
4 Notary Public of the State of
5 New York, upon being examined,
6 testified as follows:

7 EXAMINATION BY

8 MS. SCHULMAN:

9 Q. Please state your full name.

10 A. Jessica Gambino.

11 Q. What is your current address?

12 A. 325 73rd Street, Brooklyn, New
13 York 11209.

14 Q. Good afternoon, Ms. Gambino.

15 A. Good afternoon.

16 Q. Have you ever been deposed
17 before?

18 A. No.

19 Q. So I'm just going to go over a
20 few ground rules before we get started.

21 I'm going to ask you a number of
22 questions. The court reporter here will
23 take down everything we say. Because of
24 that, it's important that you give verbal
25 answers so the court reporter can record

1 J. Gambino

2 Q. Did you talk to anyone other
3 than your attorneys about this deposition?

4 A. No.

5 Q. And what is your position with
6 Local 890 League of International
7 Federated Employees?

8 A. Senior office manager.

9 Q. And the union is referred to as
10 LIFE; correct?

11 A. Yes, League of International
12 Federated Employees.

13 Q. Just to keep things shorter, I'm
14 going to refer to it as LIFE.

15 How long have you been the
16 office manager there?

17 A. Fifteen years.

18 (Whereupon, a document entitled
19 Subpoena to Testify At a Deposition in
20 a Civil Action was marked Plaintiff's
21 Exhibit 1 for identification.)

22 Q. I'm showing you what's been
23 marked as Exhibit 1. This is the subpoena
24 that we served on LIFE for today's
25 deposition.

1 J. Gambino

2 Have you seen this before?

3 A. Yes.

4 Q. And if you turn to the last
5 page, there's a list of topics for this
6 deposition, and you're prepared to testify
7 about all of these topics today?

8 A. Yes.

9 MS. SCHULMAN: You can put that
10 away.

11 Q. And what are your
12 responsibilities as the senior office
13 manager at LIFE?

14 A. I manage the office, all the
15 in-office employees and outside employees
16 as well.

17 Q. And LIFE is the union for
18 employees of Liberty Ashes; correct?

19 A. Correct.

20 Q. Do you know how long that's been
21 the case?

22 A. I'm not a hundred percent sure.

23 Q. For many years?

24 A. Yes.

25 Q. And how does someone become a

1 J. Gambino

2 A. Correct.

3 Q. And then a little further down
4 it says date of term.

5 What does that mean?

6 A. Date of termination.

7 Q. Termination of what?

8 A. Of being a union member.

9 Q. So now looking on -- let's skip
10 LIFE 022 because it's not the clearest
11 copy of that type of document.

12 LIFE 23, that's another employee
13 file inquiry for Leonard Menna; correct?

14 A. Correct.

15 Q. And then the next page, LIFE 24,
16 this is the application and checkoff
17 authorization for Mr. Menna; correct?

18 A. Correct.

19 Q. And so if you look now it's on
20 the bottom of the page, in big letters it
21 says LIFE and then the title is
22 Application and Checkoff Authorization
23 Blank.

24 Does that mean this is the
25 application for membership?

1 J. Gambino

2 A. Yes.

3 Q. And this has to be filled out in
4 order to become a member; correct?

5 A. Correct.

6 Q. Who gives these to an employee
7 to fill out, LIFE or Liberty, the company?

8 A. LIFE.

9 Q. Who hands them out?

10 A. Our union delegates.

11 Q. Who's the union delegate for
12 Liberty?

13 A. I believe it's Dina Chiclana.

14 Q. Now, at the top of the page
15 there's some handwritten stuff. At the
16 very top there's a number sign 0502.

17 Do you see that?

18 A. Yes.

19 Q. Do you know what that means?

20 A. Yes, that's the shop number for
21 Liberty Ash.

22 Q. And who wrote that in?

23 A. Whoever enrolled this person
24 into our system.

25 Q. So someone from LIFE?

1 J. Gambino

2 collective bargaining agreements between
3 Liberty and LIFE?

4 A. Yes.

5 (Whereupon, a multi-page
6 document was marked Plaintiff's
7 Exhibit 4 for identification.)

8 Q. I'm showing you what's been
9 marked as Exhibit 4. This is -- this was
10 filed -- this is a docket entry 99-1 from
11 this case or 90-1. It's a little hard to
12 read because I think it was filed twice.

13 Is this the collective
14 bargaining agreement between LIFE and
15 Liberty Ashes for the period January 1,
16 2012 to December 31, 2015?

17 A. (Reviewing).

18 Yes.

19 Q. In what capacity are you
20 familiar with the CBAs?

21 A. Somewhat.

22 Q. How have you gained whatever
23 familiarity you do have?

24 A. Basically, I'm only in charge of
25 setting up the contracts but I have

1 J. Gambino

2 nothing to do as far as negotiations.

3 Q. So you're just handling the
4 administrative end of things?

5 A. Exactly.

6 (Whereupon, a document entitled
7 Memorandum of Agreement
8 was marked Plaintiff's Exhibit 5
9 for identification.)

10 Q. I'm showing you what's been
11 marked as Exhibit 5. This is Bates
12 stamped LIFE 85.

13 Is this a memorandum of
14 agreement between Liberty Ashes and LIFE
15 dated December 22, 2015?

16 A. Yes.

17 (Whereupon, a document entitled
18 Memorandum of Agreement was marked
19 Plaintiff's Exhibit 6
20 for identification.)

21 Q. I'm showing you what's been
22 marked as Exhibit 6. This is Bates
23 stamped LIFE 86 to 89.

24 Is this a memorandum of
25 agreement between Liberty and LIFE from

1 J. Gambino

2 December, 2016?

3 A. Yes.

4 Q. Do you have any understanding of
5 how this memorandum of agreement came
6 about?

7 A. No, I'm just an administrator
8 when it comes to it.

9 Q. Do you know whether CBAs or
10 memorandums of agreement between Liberty
11 and LIFE need to be ratified by the
12 membership?

13 A. Yes.

14 Q. Yes, you know or yes, they do,
15 or both?

16 A. Both.

17 Q. How do you know that they need
18 to be ratified?

19 A. From working in the union.
20 That's what I learned.

21 Q. That they need to be ratified?

22 A. Uh-huh.

23 Q. Do you know who's eligible to
24 vote on a ratification?

25 A. No.

1 J. Gambino

2 Q. Does LIFE have withdrawal cards?

3 A. No.

4 MS. SCHULMAN: Let's take a short
5 break.

6 (Whereupon a break was taken)

7 MS. SCHULMAN: I don't have any
8 other questions.

9 MR. SMITH: I just want to make
10 sure the documents produced were
11 business records of LIFE, so I guess
12 we can mark --

13 MS. SCHULMAN: You don't want to
14 use the same ones as us?

15 MR. SMITH: Off the record.

16 (Discussion held off the record)

17 MR. SMITH: So we'll mark this as
18 nine. Exhibit 9 is documents Bates
19 stamped previously as LIFE 004 through
20 and including LIFE 089.

21 (Whereupon, multiple documents
22 were marked Plaintiff's Exhibit 9
23 for identification.)

24 (CONTINUED ON NEXT PAGE)

25

J. Gambino

EXAMINATION BY

MR. SMITH:

Q. I'm just going to show you what we're going to have marked as Exhibit 9.

Can you just tell me if those are records or copies produced that were made by personnel or staff of LIFE?

MS. JURICK: Take your time.

THE WITNESS: (Reviewing).

Q. Or it could be people acting under the control of LIFE representatives as well.

A. (Reviewing).

Yes.

Q. And were those documents kept in the regular course of business of LIFE?

A. Yes.

Q. And is it the regular course of business for LIFE to make such records?

A. Yes.

(CONTINUED ON NEXT PAGE)